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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/702,151

11/05/2003

John L. Manuel

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10/07/2008

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

SEYE, ABDOU K

ART UNIT

PAPER NUMBER

2194

NOTIFICATION DATE

DELIVERY MODE

10/07/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/702,151	Applicant(s) MANUEL ET AL.	
	Examiner Abdou Karim Seye	Art Unit 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 and 33-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 and 33-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Claims 1-31 and 33-44 are pending in this application

Claim objection

A. The following terms lack antecedent basis:

- (i) “ The system” , Claim 25.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

3. Claims 24-30, 34 and 40-44, are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter.

4. Claims 24-30, 34 and 40-44 are rejected under 35 U.S.C. 101 because the claimed invention is directed to computer product, by claiming a computer readable medium in the specification is a paper (see page 8 of the specification, paragraph 31) ; and paper are not functionally or structurally interconnected with instructions in such a manner as to enable instructions to act as a computer component and realize any functionality they may possess. Thus, the office considers this to be non-statutory subject matter.

5. Claims 24-30, 34 40-44 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a computer product comprising: logic configured to receive; logic configured to poll; logic configured to select and logic configured to direct. While not explicitly describing whether these logic are instructions stored on a computer readable medium and executed; therefore the computer product appears to be comprised of software without claiming execution of these logic.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-31 and 33-44 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Shier et al. (US 7181382)** in view of **Malaviya et al (US 6477520)**.

8. Claims 1, 8, 14, 24, 31, 33, 34, 35 and 40, Shier teaches, system, product and method for creating a best-match object at run time, comprising the steps of:

receiving a request for an object (col. 7, lines 50-54; FIG. 4: 401 col. 14, lines 45-50) ;

polling object proxies, representing the capability of each respective proxy to generate the requested object (Fig. 4: 405; col. 15, lines 7-58); and

directing the selected proxy to create the object represented by the selected object proxy (Fig. 4: 407; col. 15, lines 7-58).

9. Shier does not explicitly teach a confidence level and; selecting one of the proxies based on the confidence level.

10. Malaviya discloses a confidence level (FIG. 5:36 ; col. 15, lines 30-51; where a fuzzy object value (low or high or medium) is a confidence level) and; selecting one of the Fuzzy objects/proxies based on the confidence level (Fig. 5; col. 18, lines 10-50).

11. It would be obvious to a person of ordinary skill in the art at the time the invention was made to modify Shier's invention with Malaviya's invention to assign a confidence level to proxy object and poll the proxy object by selecting it based on the confidence level from a group of proxies object. One would be motivated to include a confidence level analyzer for a decision making process for selecting a proxy from a plurality object proxies in order to efficiently calculate true cost of travel in a travel purchasing optimization system (Malaviya's; col. 3, lines 8-28).

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12. As to claim 2, Shier teaches, wherein the step of receiving a request for an object comprises receiving indicia of a peripheral device (Fig. 1; col. 5, lines 19-35).

13. As to claim 3, Shier further teaches , wherein indicia comprises a device identifier (col. 10, lines 33-46).

14. As to claim 4, Malaviya teaches, wherein the step of selecting one of the proxies comprises comparing each confidence level with a previously received confidence level (abstract; col. 19, lines 44-64).

15. As to claim 5, Shier teaches, wherein the step of selecting one of the proxies comprises storing an index associated with a proxy having a greater confidence level (col. 15, lines 20-26).

16. As to claim 6, Shier teaches, wherein the step of directing the select one of the proxies to create the object generates a peripheral device driver (col. 15, lines 1-26).

17. As to claim 7, Shier teaches the step of: registering a new proxy capable of creating an object designated for use with a new peripheral device (Fig. 3A; col. 12, lines 20-32) .

18. Claim 19, Shier teaches, wherein the interface is configured to receive a device identifier associated with a printer (col. 1, lines 25-27)

19. As to claims 9-13, 15-18, 20-23, 35-30, 36-39 and 41-44, are rejected for the same reasons as the claims above.

Response to Arguments

20. Applicant's arguments filed on June 12, 2008 have been fully considered but they are not persuasive.

21. In the remarks applicant argue in substance that :

(1)The combination of Shier, and Malaviya failed to teach the subject matter “ a confidence level representing the capability of each respective proxy to generate the requested object ”.

22. Examiner respectfully disagreed with applicant's remark.

As to point (1) the examiner disagrees since, see paragraphs 4-7 above. Shier teaches polling object proxies to generating the requested object (Fig 3A/B; Fig. 4: 407; col. 15, lines 7-58). Malaviya teaches a confidence level (FIG. 5:36 ; col. 15, lines 30-51; confidence analyzer for data object); and selecting one of the proxies based on the confidence level (Fig. 5; col. 18, lines 10-50). Therefore the combination of Shier and

Malaviya meet the claimed limitation of "polling object proxies for a confidence level representing the capability of each respective proxy to generate the requested object ".

Conclusion

23. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached on Mon - Fri, 7:30am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, An Meng can be reached on (571)272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Meng-Ai An/

/Abdou Karim Seye/

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Supervisory Patent Examiner, Art Unit 2195

Examiner, Art Unit 2194